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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Powell N Around LLC,  
10                      Petitioner,  
11 v.  
12 Preston Parson,  
13                      Claimant.  
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No. CV-18-08205-PCT-DJH  
**ORDER**

15        This matter is before the Court on Petitioner's Motion for Default Judgment.  
16 (Doc. 15). This is a statutory proceeding brought in admiralty concerning a fire on a ship.  
17 The Motion is made on the basis of Fed. R. Civ. P. 55 and Rules F(4) and F(5) of the  
18 Supplemental Rules of Civil Procedure for Admiralty or Maritime Claims and Asset  
19 Forfeiture Actions ("Supplemental Rules"). Petitioner moves for Judgment in its favor  
20 against all non-appearing claimants, as no individuals filed claims in this matter within the  
21 time period prescribed by the Supplemental Rules.

22 **I. Background**

23        On June 12, 2018, the M/V Powell N Around ("Vessel") was conducting refueling  
24 operations at Lake Powell, near Page, Arizona, at a fuel dock operated by Antelope Point  
25 Marina. (Doc. 1). During the refueling operation, the Vessel caught fire. Petitioner alleges  
26 that the fire may have given rise to claims by a service attendant, Preston Parson, who was  
27 present during the fire. (*Id.*) On August 29, 2018, Petitioner filed its Complaint for  
28 Exoneration From or Limitation of Liability pursuant to 46 U.S.C. § 30501, *et seq.*, and

1 Rule F of the Supplemental Rules. (Doc. 1). Federal District Courts have exclusive  
2 jurisdiction over cases arising under Supplemental Rule F. *Newton v. Shipman*, 718 F.2d  
3 959, 962 (9th Cir. 1983).

4 On November 19, 2018, pursuant to the procedures mandated in the Supplemental  
5 Rules, the Court issued an Order directing the Clerk of Court to issue a “Monition: Notice  
6 to Claimants,” which directed that “[a]ll Claimants shall file their respective claims with  
7 the Clerk of this Court at the United States Courthouse, Phoenix, Arizona, in writing and  
8 under oath, and serve a copy thereof on the attorneys for Plaintiffs, on or before February  
9 20, 2019, or be defaulted.” (Doc. 9). That Order also required Petitioner to publish the  
10 Monition in the Lake Powell Chronicle, a newspaper of general circulation, in accordance  
11 with Supplemental Admiralty Rule F(4). The Court also ordered that “Petitioner shall mail  
12 a copy of this Order to every person and entity known to have asserted any claim against  
13 Petitioner or the Vessel, arising out of, resulting from, or in any manner connected with,  
14 that which the Complaint in this action seeks exoneration from, or limitation of, liability,  
15 to their last known address along with a copy to their employer at the marina where the  
16 incident occurred.” (*Id.*) No claims were received by the Court. On March 25, 2019, the  
17 Clerk of Court entered default against all non-appearing claimants. (Doc. 14). Petitioner  
18 now seeks an entry of Default Judgment.

## 19 **II. Default Judgment**

20 Entry of default judgment is within the court’s discretion. *Aldabe v. Aldabe*, 616  
21 F.2d 1089, 1092 (9th Cir. 1980). Upon entry of default, the factual allegations in the  
22 plaintiff’s complaint, except those relating to damages, are deemed admitted. *TeleVideo*  
23 *Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917 (9th Cir. 1987). For cases brought pursuant to  
24 the Supplemental Rules of Civil Procedure, default judgment will be entered against all  
25 non-appearing claimants, so long as the petitioners have fulfilled “[their] obligation to  
26 publish notice of the limitation proceeding . . . the Notice expressly and clearly states the  
27 deadlines for filing a claim and/or answer . . . and [the notice stated] that a consequence of  
28 failing to file a timely claim and/or answer was default and being forever barred from filing

1 a claim and/or answer.” *In the Matter of X-treme Parasail, Inc.*, 2011 WL 4572448, at \*1  
2 (D. Haw. Sept. 12, 2011); *See also* Supplemental Rule F. In limitation of liability matters,  
3 “courts regularly grant a default judgment against claimants who do not answer.” *Matter*  
4 *of Duley*, 2017 WL 8180609, at \*2 (C.D. Cal. July 11, 2017).

### 5 **III. Analysis**

6 Petitioner has established that the Monition was published in the Lake Powell  
7 Chronicle, a newspaper of general circulation, for four consecutive issues beginning on  
8 January 9, 2019. (Doc. 11). Moreover, the Monition and Court Order were mailed to all  
9 potential claimants, including Mr. Parson and his employer. (Doc. 10). The Monition  
10 clearly stated that potential claimants had the obligation to file claims by February 20,  
11 2019, or be defaulted. (Doc. 11) No potential claimant, individual or entity, filed an  
12 Answer or claim in this action by February 20, 2019, nor has any claimant appeared in this  
13 action in the nine months since the deadline passed. The Court finds that Petitioner fulfilled  
14 its obligations under the Supplemental Rules. Moreover, Petitioner will be prejudiced if  
15 this case remains unresolved. As referenced above, no claimants have responded to the  
16 Monition or the Application for Default or Motion for Default Judgment. Petitioner has  
17 no alternative means by which to resolve this matter and would indefinitely suffer prejudice  
18 without the availability of default judgment. *See Pepsico, Inc. v. Cal. Sec. Cans*, 238 F.  
19 Supp. 2d 1172, 1177 (C.D. Cal. 2002). Therefore, Plaintiff’s Motion will be granted and  
20 this matter will be closed.

21 Accordingly,

22 **IT IS HEREBY ORDERED** that Petitioner’s Motion for Default Judgment (Doc.  
23 15) is **granted**. Pursuant to Supplemental Rule F, Petitioner is exonerated from liability  
24 on all claims arising out of the incident involving the Vessel described herein.

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1           **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgment  
2 accordingly and terminate this matter.

3           Dated this 5th day of December, 2019.

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7           Honorable Diane J. Humetewa  
8           United States District Judge  
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